

C. Marie Eckert, OSB No. 883490
marie.eckert@millernash.com
Suzanne C. Lacampagne, OSB No. 951705
suzanne.lacampagne@millernash.com
MILLER NASH GRAHAM & DUNN LLP
3400 U.S. Bancorp Tower
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone: (503) 224-5858
Facsimile: (503) 224-0155

Roger R. Martella, Jr.
rmartella@sidley.com
Quin M. Sorenson
Benjamin E. Tannen
(to be specially admitted)
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711

Attorneys for Proposed Intervenor-Defendants
The National Association of Manufacturers
American Fuel & Petrochemical Manufacturers
American Petroleum Institute

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

KELSEY CASCADIA ROSE JULIANA, et
al.,

Case No. 6:15-cv-01517-TC

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

**DECLARATION OF HOWARD J.
FELDMAN OF THE AMERICAN
PETROLEUM INSTITUTE IN
SUPPORT OF PROPOSED
INTERVENOR-DEFENDANTS'
MOTION FOR INTERVENTION**

I, Howard J. Feldman, hereby declare as follows:

1. I make this declaration in support of the motion filed by the American Petroleum Institute (API) to intervene in the above captioned case. In this case, Earth Guardians, twenty-one individuals, and “Future Generations” acting by and through their guardian James Hansen (collectively Plaintiffs) have asked this Court to issue an injunction forcing the United States and nine federal agencies (collectively Defendants) to prepare and implement an:

[E]nforceable national remedial plan to phase out fossil fuel emissions and draw down excess atmospheric CO₂ so as to stabilize the climate system and protect the vital resources on which Plaintiffs now and in the future will depend....

First Amended Complaint for Declaratory and Injunctive Relief at Prayer for Relief at ¶ 7, *Juliana v. United States*, No. 6:15-cv-01517-TC (D. Or. Sept. 10, 2015) (First Amended Complaint). Plaintiffs are requesting that the Court order Defendants to comply with this injunction in a manner that “swiftly phase[s] out CO₂ emissions” and that the Court order any other action “necessary to ensure that atmospheric CO₂ is no more concentrated than 350 ppm by 2100....” First Amended Complaint at ¶12. To achieve this goal, Plaintiffs are calling for measures that will ensure “a near-term peak in CO₂ emissions and a global reduction in CO₂ emissions of at least 6% per year....” *Id.* at ¶258.

2. The purpose of this declaration is to provide my testimony on the impacts on API and its members should Plaintiffs be successful in forcing the economy-wide sea change in energy policy that they are seeking.

I. Qualifications and Background

3. I am the Senior Director for Regulatory and Scientific Affairs at the American Petroleum Institute, Washington, DC. Since 1987, I have worked on behalf of API’s members, focusing on key regulatory and scientific issues, including the health and environment aspects of

the oil and gas industry. At API, I oversee efforts addressing air, climate, water, waste, and health issues. My primary areas of work include environmental health issues, and atmospheric sciences, including emissions, pollutant modeling and data analysis. I have served on many government and private sector panels and participated in numerous policy and technical efforts. I have held positions of increasing responsibility at API over my 28 years with the Institute. I previously served as API's Manager of Environmental Sciences, Research Program Coordinator for Air Quality, Senior Environmental Scientist and Environmental Scientist.

4. Before my employment at API, I was an Associate Environmental Analyst at Entergy Services in New Orleans, Louisiana from 1981 to 1987. In that capacity, I provided technical and regulatory support at the service company to four electric utilities.

5. At API, I develop and promote credible, cost-effective policies, strategies, positions, standards, and practices. I also respond to federal and state regulatory and legislative initiatives and initiate and manage a multimillion dollar annual budget to conduct relevant, scientifically-sound research.

6. I have been personally responsible for climate science issues, managing several specific projects. Furthermore, I have served as an Expert Reviewer of the IPCC Third Assessment Report: Working Group II, and Climate Change 2001: Synthesis Report; the IPCC Working Group I Fourth Assessment Report; and the draft Guidelines for the US Climate Change Science Program Synthesis and Assessment Products. I have served as the co-chairman of the NARSTO public-private air pollution research group and currently serve on the US EPA's Clean Air Act Advisory Committee. I have drafted comments and provided testimony on a number of climate initiatives.

7. I graduated from the Harvard School of Public Health at Harvard University with

a Masters of Science in June of 1981. My majors were Environmental Health Management and Air Pollution Control. I graduated from the College of Agriculture and Life Sciences at Cornell University, with a Bachelor of Science, in May of 1979, where I majored in Atmospheric Science.

II. American Petroleum Institute

8. API is the national trade association representing all facets of the oil and natural gas industry, and is therefore strongly affected by laws governing the oil and natural gas industry. API's members are already subject to many regulations addressing air emissions, including a number that focus squarely on greenhouse gas (GHG) emissions.

9. The economic effects of mandatory reductions in GHG emissions are of great concern to API. Rather than compelled government mandates to reduce GHG emissions by certain amounts by certain dates, API supports the reduction of greenhouse gases through voluntary improvements in energy efficiency, reducing natural gas flaring, developing and applying carbon dioxide capture and storage technology, and investing in and marketing lower-emission natural gas and alternative energy.

<http://www.api.org/Environment-Health-and-Safety/Climate-Change>

III. API's Members

10. API has more than 625 members, including large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms, who, collectively, provide most of the nation's energy. API's members explore for, produce, transport, refine, and sell oil, natural gas, and other fossil fuels, the combustion of which releases carbon dioxide into the atmosphere.

IV. API's Members' Contribution to the Economy

11. API's members support 9.8 million U.S. jobs and 8 percent of the U.S. economy. America's oil and natural gas industry supplies \$85 million *every day* (\$30 billion per year) to the U.S. Treasury in the form of income taxes, rents, royalties, and other fees.

<http://www.api.org/Policy-and-Issues/Policy-Items/Jobs/Economic-Impacts-of-Oil-and-Natural-Gas-Industry>; <http://www.api.org/Policy-and-Issues/Policy-Items/Taxes/Energy-and-Taxes>.

12. The financial returns from oil and natural gas company stocks are enjoyed by American college and university endowments. Moreover, nearly 50% of shares in publicly-traded oil and natural gas companies are held by public and private pension plans, including 401(k)s and IRAs. <http://www.api.org/Oil-and-Natural-Gas-Overview/Industry-Economics/Industry-Investments>.

V. Impact of Plaintiffs' Proposed GHG Regulation on the Oil and Natural Gas Industry

13. If Plaintiffs succeed in eliminating or massively reducing U.S. conventional fuel development and consumption and imposing other severe restrictions on GHG emission limits, the impact on API's members will be significant and varied.

14. The primary business of API's members involves one or more aspects of the production or supply chain for oil, natural gas, or other fossil fuels. A sudden and significant reduction in allowable GHG emissions from the combustion of fossil fuels could have a significant negative effect on the profitability of many of API's members by constraining the sale of the product they have specialized in developing and selling.

15. Based on the significant potential impacts that GHG regulation would have on API's members, API has actively engaged with the administration, Congress, and the courts on

the ongoing debate related to climate change controls. This has involved providing extensive—and sometimes critical—comments on the range of GHG regulations that Defendants have proposed and finalized over the last several years.

16. For more information about API's position on climate change, please see: http://www.api.org/Policy-and-Issues/Policy-Items/Environment/Climate_Change.

17. In addition, API has been forced to challenge a number of Defendants' GHG regulations in court, including a number of the major rules issued by the Environmental Protection Agency to regulate GHG emissions.

18. At the same time, API is committed to working with Congress to establish reasonable climate and energy policies for the protection of the environment while ensuring a reliable source of low-cost energy. It is critical to do so in a way that does not impose unreasonable and unnecessary burdens on the oil and natural gas industry and the hundreds of millions of Americans who rely on reliable and affordable fossil fuels to support nearly every aspect of modern life.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 10th day of November, 2015.



Howard J. Feldman

I hereby certify that I served the foregoing Declaration of Howard J. Feldman of the American Petroleum Institute in Support of Proposed Intervenor-Defendants' Motion for Intervention on:

Julia A. Olson
Wild Earth Advocates
1216 Lincoln Street
Eugene, Oregon 97401
E-mail: juliaaolson@gmail.com

Attorney for Plaintiffs

Philip L. Gregory
Cotchett, Pitre & McCarthy, LLP
840 Malcolm Road
Burlingame, California 94010
E-mail: pgregory@cpmlegal.com

Attorney for Plaintiffs

Daniel M. Galpern
Law Offices of Daniel M. Galpern
1641 Oak Street
Eugene, Oregon 97401
E-mail: dan.galpern@gmail.com

Attorney for Plaintiffs

Justin Torres
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
601 D. Street NW
Washington, D.C. 20044
E-mail: justin.torres@usdoj.gov

Attorney for Defendants

by the following indicated method or methods on the date set forth below:

- ☒ **CM/ECF system transmission.**
- ☐ **E-mail.** As required by Local Rule 5.2, any interrogatories, requests for production, or requests for admission were e-mailed in Word or WordPerfect format, not in PDF, unless otherwise agreed to by the parties.
- ☐ **Facsimile communication device.**
- ☐ **First-class mail, postage prepaid.**
- ☐ **Hand-delivery.**

DATED this 12th day of November, 2015.

/s/ C. Marie Eckert

C. Marie Eckert, P.C.
Oregon State Bar No. 883490

*Of Attorneys for Proposed Intervenor-
Defendants The National Association of
Manufacturers, American Fuel &
Petrochemical Manufacturers, and American
Petroleum Institute*